SBCivil Writ Petition No.4940/2005

Executive Officer, Nagar Palika, Rani Distt.Pali v. Industrial Disputes Tribunal-cum-Labour Court, Jodhpur & Anr.

Date of Order :: 17th January, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.R.Mehta]
Mr. Raj Kumar] for the petitioner.
Mr. Vijay Mehta, for the respondents.

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By this petition for writ a challenge is given to the order dated 1.4.2004 passed by learned Labour Court, Jodhpur accepting the application preferred by workman under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act of 1947").

The facts in brief giving rise to present petition are that by an award dated 29.7.1999 learned Labour Court, Jodhpur while declaring retrenchment of workman Shri Rameshchand illegal, granted relief of reinstatement in service with full back wages from the date of retrenchment to the date of award i.e. from 17.1.1994 to 30.9.2000. The employer by way of filing a writ petition bearing No.1906/2003 assailed validity and propriety of the award dated 29.7.1999.

The workman preferred an application under Section 33-C(2) of the Act of 1947 for computation and

payment of back wages awarded under the award dated 29.7.1999. By the order impugned dated 1.4.2004 learned Labour Court accepted the application under Section 33-C(2) of the Act of 1947 and declared the petitioner entitled for getting the amount of Rs.1,42,043/- against the back wages, interest thereon and the fine imposed. The instant writ petition is to challenge the order aforesaid dated 1.4.2004.

The writ petition No.1906/2003, titled as Executive Officer, Municipal Board, Rani v. Judge, Industrial Tribunal, Jodhpur, wherein the petitioner has given challenge to the award dated 29.7.1999, is heard and disposed of today alongwith present writ petition. This Court in SBCWP No.1906/2003, declared the respondent workman entitled for getting the back wages to the extent of 50% of complete wages. In view of modification made in the award dated 29.7.1999 present writ petition is required to be considered. There is no dispute that the petitioner was declared entitled for reinstatement with full back wages by the Labour Court and, therefore, whatever amount awarded by the Labour Court is required to be paid to the respondent workman. The employer cannot shirk from the liability imposed. However, in view of the fact that the original award itself is modified by declaring the petitioner entitled for payment of back wages only to the extent of 50% of full back wages, therefore, the order dated 1.4.2004 is also required to be modified.

The petitioner as such shall be entitled for the payment of Rs.71,021.50 only, against the back wages, interest thereon and the fine imposed.

The writ petition is disposed of in the terms above.

(GOVIND MATHUR),J.

kkm/ps.